

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action transmitted September 20, 2007 ("*Office Action*"). Claims 1-34 are pending in the Application, and the Examiner rejects all pending claims. Applicants amend the specification to correct a typographical error. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

I. Double Patenting Rejections

A. The proposed Application No. 10/804,550 and *Karbowiak* combination:

The Examiner provisionally rejects Claims 1-34 on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1-54 of co-pending Application No. 10/804,550 in view of U.S. Patent No. 4,663,748 issued to Karbowiak, et al ("*Karbowiak*"). As this is a provisional double patenting rejection, Applicants defer the decision to file a terminal disclaimer or traverse the rejection until the Examiner has indicated that both the present Application and co-pending Patent Application No. 10/804,550 include allowable subject matter. See M.P.E.P. § 804 (subpart I.B.1).

B. The proposed Application No. 10/804,555 and *Karbowiak* combination:

The Examiner provisionally rejects Claims 1, 9, 17, 25, 33, and 34 on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1, 8, 15, 22, 29, and 31 of co-pending Application No. 10/804,555 in view of *Karbowiak*. As this is a provisional double patenting rejection, Applicants defer the decision to file a terminal disclaimer or traverse the rejection until the Examiner has indicated that both the present Application and co-pending Patent Application No. 10/804,555 include allowable subject matter. See M.P.E.P. § 804 (subpart I.B.1).

II. Rejections under 35 U.S.C. § 102(b)

The Examiner rejects Claims 1-6, 7-14, 17-21, 25-30, and 33 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,993,025 issued to Vesel, et al. ("*Vesel*"). Applicants respectfully traverse this rejection and submit that *Vesel* does not describe, expressly or inherently, each and every limitation of the claims.

Consider Applicants' independent Claim 1, which recites:

An optical node comprising:
a data interface operable to receive data for transmission to a destination node;
a buffer operable to store the data;
a transmitting unit operable to couple to an optical transmission medium having a plurality of data channels and to selectively transmit optical signals on the data channels; and
a controller operable to receive a first token authorizing transmission on one of the data channels, to generate a transmission control message identifying the destination node and the authorized data channel, to communicate the transmission control message to a next node, to communicate a second token to the next node authorizing secondary transmissions on the authorized data channel, to transmit the data on the authorized data channel using the transmitting unit after communicating the transmission control message, and to communicate the first token to the next node after communicating the second token to the next node.

Applicants respectfully submit that *Vesel* fails to describe every element of this claim.

Among other aspects, *Vesel* fails to disclose (1) “a controller operable to receive a first token authorizing transmission on one of the data channels;” (2) “to generate a transmission control message identifying the destination node and the authorized data channel;” and (3) “to communicate a second token to the next node authorizing secondary transmissions on the authorized data channel,” as Claim 1 requires.

A. *Vesel* fails to describe a controller operable to receive a first token authorizing transmission on one of the data channels.

Claim 1 requires “a controller operable to receive a first token authorizing transmission on one of the data channels.” *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* relies on *Vesel*, column 6, lines 39-60. *Office Action*, p. 8-9. The cited portion of *Vesel* states, “[i]n the normal mode of operation, the token is passed after each transmission to assure equal access to the network by all nodes.” Col. 6, ll. 48-51. *Vesel* specifies that a “token” is a “control signal that is used to grant a node the privilege to transmit on the ring.” *Vesel*, col. 6, ll. 51-52. Accordingly, *Vesel* fails to disclose “a first token authorizing transmission on one of the data channels,” as Claim 1 requires. Thus, *Vesel* does not describe, expressly or inherently, “a controller

operable to receive a first token authorizing transmission on one of the data channels,” as Claim 1 requires.

B. *Vesel* fails to describe a transmission control message identifying the destination node and the authorized data channel.

Claim 1 also requires “to generate a transmission control message identifying the destination node and the authorized data channel.” *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* again relies on *Vesel*, column 6, lines 39-60. *Office Action*, p. 8-9. In the cited portion, *Vesel* states, “[t]he transmitting node first sends a query to determine whether the destination node can accept the information packet.” *Vesel*, col. 6, ll. 54-56. However, *Vesel* fails to teach a “message identifying the destination node and the authorized data channel,” as Claim 1 requires. Thus, *Vesel* does not describe, expressly or inherently, “to generate a transmission control message identifying the destination node and the authorized data channel,” as Claim 1 requires.

C. *Vesel* fails to describe communicating a second token authorizing secondary transmissions.

Claim 1 further requires “to communicate a second token to the next node authorizing secondary transmissions on the authorized data channel.” *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* relies on the same portion of *Vesel* (col. 6, ll. 39-60). *Office Action*, p. 8-9. As mentioned above, the cited portion of *Vesel* states, “[i]n the normal mode of operation, the token is passed after each transmission. . . . A node that wishes to transmit captures the token and removes it from the ring.” col. 6, ll. 48-54. However, *Vesel*’s token ring protocol fails to teach, or even suggest, “communicat[ing] a second token . . . authorizing secondary transmissions on the authorized data channel,” as Claim 1 requires. Thus, *Vesel* does not describe, expressly or inherently, each and every limitation as required by Claim 1.

Independent Claims 9, 17, 25, and 33 include limitations that, for substantially similar reasons as discussed in Sections A, B, and C, are not disclosed by *Vesel*. Because *Vesel* does not disclose, expressly or inherently, every element of independent Claims 1, 9, 17, 25, and

33, Applicants respectfully request reconsideration and allowance of Claims 1, 9, 17, 25, and 33 and their respective dependent claims.

D. The Dependent Claims Include Many Separately Patentable Limitations

As just one example, consider dependent Claim 2, which requires “to transmit the secondary transmissions . . . at a time so as not to conflict with transmission of the data by the optical node.” *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* relies on *Vesel*’s time base in figure 3A. *Office Action*, p. 9. With respect to the time base in figure 3A, *Vesel* describes “the duration that the data has been waiting in the queuing buffer.” Col. 5, ll. 11-12. However, *Vesel* fails to teach “transmit[ing] the secondary transmissions . . . at a time so as not to conflict with transmission of the data by the optical node,” as Claim 2 requires. Thus, *Vesel* does not describe, expressly or inherently, “transmit[ing] the secondary transmissions . . . at a time so as not to conflict with transmission of the data by the optical node,” as Claim 2 requires.

Applicants respectfully request consideration of the separately patentable limitations in this and the other dependent claims.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of this Application.

If the Examiner feels prosecution of the present Application may be advanced by a telephone conference, Applicants invite the Examiner to contact the undersigned attorney at (214) 953-6584.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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Date: 12/14/2008

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